

## **STATE WATER CONTROL BOARD ENFORCEMENT ACTION**

### **A SPECIAL ORDER BY CONSENT ISSUED TO**

**Old Dominion Electric Cooperative and Virginia Electric and Power Company  
Clover Power Station  
Permit Number VA0083097**

#### **SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Old Dominion Electric Cooperative and Virginia Electric and Power Company for the purpose of addressing final compliance with their Permit.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. **AVa. Code@** means the Code of Virginia (1950), as amended.
2. **ABoard@** means the State Water Control Board, a permanent citizen board of the Commonwealth of Virginia as described in Va. Code ' ' 10.1-1184 and 62.1-44.7.
3. **ADepartment@** or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code ' 10.1-1183.
4. **ADirector@** means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.

6. "Owners" mean Old Dominion Electric Cooperative and Virginia Electric and Power Company, corporations certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Facility" means the Clover Power Station landfill located in Clover, Virginia.
8. "SCRO" means the South Central Regional Office of DEQ, located in Lynchburg, Virginia.
9. "Permit" means VPDES permit number VA0083097, which became effective December 27, 2000 and expires December 27, 2005.
10. "DMR" means Discharge Monitoring Report.

### **SECTION C: Findings of Facts and Conclusions of Law**

1. The Permit for the Facility contains water quality-based effluent limitations for the discharges from Stages I and II at Outfall 003, which become effective December 27, 2004.
2. The Permit also requires Owners to develop a Compliance Action Plan ("CAP"), and to select a final compliance strategy and timeline for complying with the discharge limits at Outfall 003.
3. Waste generation at the Clover Power Station necessitates that an additional phase ("Stage III") of the Facility be opened for waste disposal, which was permitted by the DEQ Waste Division on October 17, 2000. Accordingly, Stage III requires a new outfall, Outfall 009.
4. The Permit requires the Owners to notify the Department on or before the DMR due date of the month that Stage III will begin operations.
5. Through the CAP process, Owners selected a final compliance strategy that involves consolidating the discharges from Outfalls 003 and 009 and relocating the outfalls.
6. Outfall 009 must meet the water quality-based effluent limitations in the Permit immediately upon initiation of operations of Stage III. Because Outfall 009 is a new discharge, the compliance schedule for Outfall 003 contained in the Permit is inapplicable to Outfall 009.

7. The final compliance strategy developed by the Owners will not be fully implemented before Stage III of the Facility begins operations.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders the Owners, and the Owners agree, to comply with the schedule contained in Appendix A for the final compliance strategy derived from the CAP for Outfalls 003 and 009, and to comply with the interim effluent limits for Outfall 009 contained in Appendix B.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of the Owners, for good cause shown by the Owners, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves the matters specifically discussed herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order.
3. For purposes of this Order and subsequent actions with respect to this Order, the Owners admit to the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The Owners consent to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Owners declare they have received fair and due process under the Administrative Process Act, Va. Code ' ' 9-6.14:1 *et seq.*, and the State Water Control Law, and waive the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a

- waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by the Owners to comply with any of the terms of this Order shall constitute a violation of an Order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
  7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
  8. The Owners shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The Owners must show that such circumstances resulting in noncompliance were beyond their control and not due to a lack of good faith or diligence on their part. The Owners shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
    - a. the reasons for the delay or noncompliance;
    - b. the projected duration of any such delay or noncompliance;
    - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
    - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.Failure to so notify the Regional Director within 24 hours of learning of any condition listed above, which the Owners intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.
  9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and the Owners. Notwithstanding the foregoing, the Owners agree to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

- a. The Owners petition the Regional Director to terminate the Order after they have completed all requirements of the Order. The Director's determination that the Owners have satisfied all requirements of the Order is a "case decision" within the meaning of the Virginia Administrative Process Act; or
- b. The Director or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to the Owners.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve the Owners from their obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, the Owners voluntarily agree to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2002

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

Owners voluntarily agree to the issuance of this Order.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
K. N. Kappatos, of Old Dominion Electric Cooperative

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2002, by K.N. Kappatos of Old Dominion Electric  
Cooperative

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

Commonwealth of Virginia  
City/County of \_\_\_\_\_

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Martin L. Bowling, Jr., of Virginia Electric and Power Company

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2002, by Martin L. Bowling, Jr. of Virginia Electric and  
Power Company

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

Commonwealth of Virginia  
City/County of \_\_\_\_\_

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## **Appendix A**

**Owners shall** comply with the following schedule:

1. Apply for the environmental permits necessary to consolidate and relocate Outfalls 003 and 009 to the Roanoke River by August 1, 2002.
2. Begin contracting and construction within 30 days following the issuance of the applicable environmental permits, which allow such construction to proceed.
3. Complete construction within 18 months following 2 above, but not later than December 27, 2004.
4. Submit quarterly progress reports with the DMR, which are due the 10<sup>th</sup> day of January, April, July, and October each year the Order is in effect.

## Appendix B

### INTERIM LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning the effective date of this Order and lasting until the final compliance deadline of December 27, 2004, the permittees are required to comply with the following interim limits specified below for Outfall 009:

<u>Effluent Characteristics</u>	<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow (MGD)	NL	NA	NA	NL	1/Day	Measurement
pH (Standards Units)	NA	NA	6.0	9.0	2/Month	Grab
Total Suspended Solids	NL	NA	NA	50	2/Month	Grab
Ammonia Nitrogen	NL	NA	NA	NL	1/Year	Grab
Total Recoverable Manganese	NL	NA	NA	NL	1/Year	Grab
Total Recoverable Selenium	NL	NA	NA	NL	1/Year	Grab
Sulfate	NL	NA	NA	NL	1/Year	Grab







